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VOLUME XXVI, No. 22

MONDAY, APRIL 10, 1933

WHOLE No. 712

## The Twenty-Sixth Annual Meeting of The Classical Association of the Atlantic States

will be held on

Friday Afternoon and Evening, April 28

Saturday Morning and Afternoon, April 29

at

Barnard College, Columbia University

There will be a

SUBSCRIPTION DINNER AT 7 P. M. APRIL 28

and a

SUBSCRIPTION LUNCHEON AT 12:30, APRIL 29

# The Classical Association of the Atlantic States

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## THE ORIGIN OF THE ACTIO PER FORMULAM

Cicero sometimes toys, or seems to toy, with legal phraseology, quite as a physician toys sometimes with the technical terms for his patients' maladies. Yet relatively little would be known concerning the legal institutions of Rome in the days of the 'Republic', did we not have the writings of Cicero as sources of information. Since the Ciceronian expressions are often rhetorical, they must be checked by reference to other sources, or, if no other sources exist, the Ciceronian expressions must be used with caution and common sense.

But Cicero is not always rhetorical. His close and intricate argument in his speech *Pro Caecina*<sup>1</sup> is evidence not only of sound reasoning, but also of the part Roman lawyers played in juristic interpretation. This great speech portrays the evolution of a law of equity. The praetors, aided by men like Cicero, in directing the *legis actiones* introduced principles and established precedents which ultimately formed a substantial part of Roman law. To this process the Romans owed the *actio per formulam*.

The older *actio per sacramentum*<sup>2</sup> was a form of civil procedure still in use in Cicero's time. Through this form of legal procedure the Roman State first assumed responsibility in the settlement of private disputes. The name of this *actio* was derived either from the fact that a wager was staked by each party in the case, which, when it was forfeited, was used to meet the expenses of public sacrifices, or from the fact that the challenging oaths of the parties constituted the significant feature of the *actio*, or process<sup>3</sup>. At all events, the wager itself came to be known as a *sacramentum*. The bet, made by the plaintiff, was met by the defendant; the money involved in the bet was held by the praetor.

The interest of the State in private cases, as represented in the action of the praetor, could not long be confined to supervision of the sacramental procedure. That procedure was very tedious. The process opened with an oral pleading before the praetor. Then both disputants seized the object in dispute, or something which represented that object. At the same time each grasped a rod (the rod replaced the original spear, symbol of early trial by combat). This was done to symbolize a fight. Next, the praetor, acting for the State in the interests of peace and order, intervened in this dramatization of the primitive method of settling disputes. He gave temporary possession of the object in dispute to one of the parties, but at the same time

required him to pledge sureties to his adversary that, should he lose the case, he would return to his adversary the object and whatever profits should accumulate *ad interim* from its possession. The praetor then nominated a *iudex*, with whom the parties arranged for a trial at the end of thirty days.

Both points of law and matters of fact were decided by the *iudex*, a sort of court-referee. The praetor gave to the *iudex* the formula according to which the case was to be adjudicated<sup>4</sup>. The formula was not to be stated in such a way as to prejudge a matter of fact, or to condemn a man before he was tried. Cicero implies this in a burlesque formula (italicized in the quotation given below) by which he intends to illustrate the general dishonesty of Verres<sup>5</sup>: *Si vero illud quoque accedit ut praetor in ea verba iudicium det ut vel <'even'> L. Octavius Balbus iudex, homo et iuris et officii peritissimus, non possit aliter indicare, si iudicium sit eius modi, L. Octavius iudex esto. Si paret fundum Capenatem, quo de agitur, ex iure Quiritium P. Servilii esse neque is fundus Q. Catulo restituetur. . . , non necesse erit L. Octavio iudici cogere P. Servilium Q. Catulo fundum restituere, aut condemnare eum quem non oporteat? . . .* The appointment of a *iudex* was necessary only when matters of fact had to be decided, and the law was to be applied accordingly. In Cicero's time both praetors and court-referees, while trials were in progress, could consult legal advisers. Meanwhile it had become a general principle that the *actio per sacramentum* should be used only in cases where no other method was allowed by statute.

When the issues in a dispute and the rights involved were obvious, a *legis actio* was both impossible and unnecessary. In such a case, since the facts were apparent and the magistrate's *imperium* empowered him to render judgment immediately, the praetor simply ordered the party in the wrong to yield to the other's demands, thus settling the case finally. If the issues and the rights involved in a case had never been defined by law, a *legis actio* was impossible. In such a case, especially if proof of the facts seemed wanting, the praetor ordered one party to yield to the other in order to indicate a tentative judgment and to open the case for trial without the older sacramental preliminaries. The interdict<sup>6</sup>, in the latter instance a tentative settlement of the case, became a formula on the basis of which the case was to be tried. The magistrate's *imperium* was applied at the outset to effect the prompt settlement of the controversy; he intervened (*inter-*

<sup>1</sup>See e. g. 3, 6, 14, 23, 24, 32.

<sup>2</sup>For this see Cicero, *Pro Caecina* 54, 97, *Pro Murena* 25, 26, 27, *Pro Milone* 74, *Ad Atticum* 6.1.8, *Ad Familiares* 7.32.2, *De Oratore* 1.41, 42, 186, 193, *De Natura Deorum* 3.74, *De Domo* 78; Aulus Gellius 20.1.10; Varro, *De Lingua Latina* 5.180; Gaius 4.15, 16.

<sup>3</sup>Compare J. L. Strachan-Davidson, *Problems of the Roman Criminal Law*, 1.46-66 (Oxford: At the Clarendon Press, 1912); A. H. J. Greenidge, *The Legal Procedure of Cicero's Time*, 11, 52-75 (Oxford: At the Clarendon Press, 1901).

<sup>4</sup>See Cicero, *Pro Tullio* 38, *Pro Quinctio* 5, 29, 30, 36, 74, *Pro Roscio Comoedo* 12, 15, 22, *Ad Quintum Fratrem* 1.2.10, *In Verrem* 2.2.47, 71, *De Oratore* 1.167, 173; Sallust, *Catilina* 33; Dionysius 4.25; Polybius 6.17.7; Digest 22.6.2.

<sup>5</sup>In *Verrem* 2.2.31.

<sup>6</sup>Cicero, *Pro Caecina* 45, *Pro Tullio* 29, *Ad Familiares* 7.32.1, *De Lege Agraria* 3.11, *De Oratore* 1.41; Caesar, *De Bello Gallico* 1.46.4, 5.22.5; Livy 5.3.8; Gaius 4.139, 141, 150, 164-166. See also note 1, above.

*dixit*) in the interests of peace and order. Such intervention, a characteristic of primitive monarchy, was recognized by the Twelve Tables<sup>7</sup>. Cicero<sup>8</sup> says that the praetor was frequently occupied for an entire day at a time in issuing interdicts. In many cases, the violation of rights and the justice of the demands of the interdict—questions of fact and of law—had to be investigated in a subsequent trial.

The interdict<sup>9</sup> was instrumental in stopping trespasses on public works, in securing the release of witnesses who had been detained, and, most frequently, in protecting the rights of ownership. To a certain extent a case which required an interdict obliged the praetor to make his own law, and to be more aggressive in the process of settlement than the litigants themselves, thus preventing such private initiative as appeared in other forms of procedure. In other words, the praetor's activities in connection with an interdict were in marked contrast to his more or less passive supervision of the *legis actio*. In interdictal cases the praetor appeared in the double rôle of legislator and of administrator of the law he himself had laid down. If, after granting the interdict, the praetor held that a trial was necessary, he assigned the case to a *iudex*, or to *recuperatores*, according to the nature of the dispute. The trial merely produced the facts, in view of which the injunctions of the interdict would be promptly carried out.

Praetors' interdicts crystallized into a type of law, and the *iudicia* which were held in accordance with them set up precedents which figured in subsequent cases of the same general character. The interdictal procedure, as it appeared in the age of Cicero<sup>10</sup>, was the outcome of an endeavor to meet frequent emergencies in a society with whose growth the law had not kept pace. A by-product of the interdictal process was a considerable supplement to the praetorian law, that is, out of the interdictal process a Roman law of equity was developed.

The use of the interdictal procedure stimulated the growth of a new process, the *actio per formulam*, which gradually superseded the archaic *actio per sacramentum*. The assignment of cases to *iudices* under the sacramental procedure, and the accompanying instructions concerning the trials furnished the opportunity for the rise of the formulary procedure. Mr. Strachan-Davidson<sup>11</sup> states this fact as follows:

...It was but a slight step forward that the praetor, instead of submitting to the *iudex* the question of a 'just' or 'unjust' *sacramentum*, should define more closely in a written document what were the precise points on which he was to decide, and what effect these decisions were to have on his final verdict of acquittal or

condemnation; and here we find ourselves in the 'Formulary system'.

The old process was retained primarily for centumviral trials and in cases of damage caused by a person or persons virtually self-convicted by the evidence. Further, it was employed only in cases where both litigants were Roman citizens.

Therefore, the chief factor in the development of the formulary process was the necessity of trying cases in which foreigners were involved<sup>12</sup>. Disputes between foreigners, or between citizens and foreigners, could not be adjudicated under the *ius civile*, for the *ius civile* applied only to citizens; hence to the settlement of such disputes the praetor was required to apply equity. The *actio per sacramentum*, the interdictal procedure, and the *actio per formulam* operated side by side, but the simpler formulary process (*actio per formulam*) gradually supplanted the older and more awkward forms. Finally this change seems to have been recognized by statutory law. Gaius<sup>13</sup>, with characteristic brevity, explains the matter thus: ...Sed istae omnes legis actiones paulatim in odium venerunt; ...itaque per legem Aebutiam et duas Iulias sublatae sunt istae legis actiones effectumque est ut per concepta verba, id est per formulas, litigemus.

The *actio per formulam* was not so tediously formal as the *legis actio per sacramentum* or the interdictal process. The absence of any rigid law for the formulary procedure left it sufficiently elastic to adjust itself to the demands made upon it<sup>14</sup>. Moreover, in the course of time, the praetors created a law of equity consistent with the procedure *per formulam*. After the creation of the office of *praetor peregrinus*, in 242 B. C., the *actio per formulam* was the *actio* normally employed by the *praetor peregrinus*. Later, however, the *praetor urbanus*, too, used it, for cases between Roman citizens. Yet the *actio per formulam* had not by the time of Cicero entirely displaced the older forms.

The main feature of the formulary process<sup>15</sup> was the praetor's formula. Cicero's parody of the formula (quoted above, in the fifth paragraph of the text) may be slightly modified to present a correct formula: ... L. Octavius iudex esto; si paret fundum Capenatem, quo de agitur, ex iure Quiritium P. Servilii esse, neque is fundus P. Servilio restituetur. ... Another of the simpler formulas, used to supply a fiction of heirship in the case of a claim not recognized in the civil law, exemplifies the functions and the advantages of the formulary procedure: ... Si Aulus Agerius Lucio Titio heres esset, tum si pareret Numerium Negidium Aulo Agerio sestertium X milia dare oportere, iudex

<sup>7</sup>The extant portions of the Twelve Tables may be found in C. G. Bruns, *Fontes Iuris Romani Antiqui*, 1.15-40 (Tübingen, P. Siebeck, 1908). Berger, in an article entitled *Tabulae Duodecim*, in Pauly-Wissowa, *Real-Encyclopädie der Classischen Altertumswissenschaft*, Zweite Reihe, 4. 1899-1949, presents the latest scholarly interpretation and reconstruction of the Twelve Tables.

<sup>8</sup>Pro Caecina 36.

<sup>9</sup>Lex Agraria 18, and Lex Rubria 19, in Bruns, 1.77, 97 (see note 7, above); Gaius 4.148, 153, 160; Digest 1.16.2, 4, 6, 43.8.2, 30, 34, 35, 39. See also the discussion of the case Pro Caecina, in Greenidge, 556-568 (see note 3, above).

<sup>10</sup>See Cicero, Pro Caecina 34; Digest 1.1.7 (opinion of Papinian).

<sup>11</sup>1.67 (see note 3, above).

<sup>12</sup>For partial agreement with this view see Strachan-Davidson, 1.71 (see note 3, above); W. W. Buckland, *A Textbook of Roman Law*, 622-625 (Cambridge: At the University Press, 1921); Greenidge, 172 (see note 3, above).

<sup>13</sup>4.30.

<sup>14</sup>See Cicero, Pro Caecina 40, Pro Roscio Comoedo 24, 35, 55, Pro Tullio 5, 33, Topica 33, De Oratore 1. 237, Partitiones Oratoriae 98, 100; Lex Ursonensis 61, in Bruns, 1.123 (see note 7, above); Livy, Epitome 19. Compare Strachan-Davidson, 1.79-84 (see note 3, above).

<sup>15</sup>See Cicero, Pro Caecina 7, 8, Pro Quintio 62, 63, Pro Flacco 50, Pro Cluentio 110, 120, Pro Tullio 8, Pro Roscio Comoedo 42, 45, In Verrem 2.2.31, 2.4.66, De Inventione 2.58, De Legibus 1.14, De Oratore 2.263, 285; Gaius 4.34-68.



Numerium Negidium Aulo Agerio sestertium X milia condemna; si non paret, absolve!<sup>16</sup>

This formulary process was free from such preliminary ceremony as characterized the sacramental and interdictal procedures. The parties simply appeared before the praetor, *in iure*, and presented their case, either verbally or in writing. The praetor then produced a written formula which defined the issue and the judgment to be rendered, according as the complaint (*intentio*) should or should not be upheld in the subsequent trial. The case was assigned to a *iudex*, if possible to a *iudex* acceptable to both parties. The hearing before the *iudex* (i. e. the hearing *in iudicio*) was enlivened by the contest between plaintiff and defendant and their respective *patroni*.

The trial<sup>17</sup> was public. On an appointed day the parties appeared before the *iudex* in the Forum. The first act of the *iudex* seems to have been to take an oath that he would perform faithfully the functions of his office. He then received a general outline of the case, or the formula previously prepared by the praetor. The case may then have been further introduced by short speeches of the *patroni*. If the trial lasted more than one day, a complete outline of the facts was presented again when the hearing was resumed. The speech for the plaintiff came first. The testimony of witnesses seems to have been heard after the speeches of the *patroni*. When the hearing was finished, the *iudex* and his advisers went into consultation to decide upon a proper verdict. The judgment was usually delivered in extremely cautious terms. Execution was left to the successful litigant.

The formulary process did not remain as adjustable to every occasion as it was at the outset, for the *formulae* became stereotyped. The praetors developed the practice of publishing annually, at the beginnings of their terms of office, the *formulae* they would use, at the same time announcing the types of procedure they would follow; and the law eventually required praetors to abide by the edicts in which they made such publication and such announcement<sup>18</sup>. Though this procedure provided speedy justice and contributed to the rise of substantive law, its later mechanical character may be seen in the fact that an error in the *demonstratio* or in the *intentio* automatically upset the whole proceeding. Further, the praetor's instructions to the *iudex* could be so stated as to force a well-inten-

tioned judge to deliver an unjust judgment (see the fifth paragraph of this paper, and note 16, above). The praetor, who had originally made both law and procedure in cases for which these did not yet exist, was finally subject to the system which his predecessors had slowly constructed, and his own law-making was correspondingly limited.

The *actio per formulam* originated under the necessity of administering justice for foreigners sojourning in the city of Rome. Departing from the early *actio per sacramentum* and following the suggestions of the interdictal process, the praetors gradually adapted the procedure developed at first for cases involving foreigners to cases in which both litigants were citizens. Consequently, in these and other types of legal action the technicalities of Roman law and procedure became extremely complicated.

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### Ἡ Πρώτη Στέγη IN HOUSES OF SEVERAL STORIES<sup>1</sup>

Scholars have been, with one exception, unanimous in holding that the words ἡ πρώτη στέγη in Greco-Roman antiquity<sup>2</sup> signified, in houses of more than one story, the story one flight above the street level<sup>3</sup>, even as the expression 'the first floor' does on the continent of Europe to-day (in the United States we call this the *second* story). Luckhard, in suggesting an origin for such usage<sup>4</sup>, argued unconsciously from the modern custom of counting by 'floors'. The argument does not hold for ancient times, for then counting was done by 'ceilings'.

Originally, *στέγη* denoted the 'roof' of a house. It is easy enough to see how, in houses of more than one story, the word came to mean the 'roof' of any single

<sup>1</sup>In the text, to save space in giving references to the papyri I use the accepted abbreviations of the titles of the various collections. The data about the collections mentioned in the notes are as follows: B. G. U. = Aegyptische Urkunden aus den Staatlichen Museen zu Berlin: Griechische Urkunden (7 volumes, by various editors, 1895-1926. In volumes 1-4 'Königlichen' appeared in the title instead of 'Staatlichen'); P. Cairo Zenon = Catalogue Générale des Antiquités Égyptiennes du Musée du Caire: Zenon Papyri, by C. ampell & C. owan > Edgar. Volumes 1-4 (1925-1931); P. Lond. = Greek Papyri in the British Museum Catalogue, With Texts, Volumes 1-5 (1893-1917). Volumes 1-2 were edited by Frederic G. Kenyon, Volume 3 by Frederic G. Kenyon and H. Idris Bell, Volumes 4-5 by H. Idris Bell; P. Mon. = Byzantinische Papyri in der Königlichen Hof- und Staatsbibliothek zu München, edited by August Heisenberg and Leopold Wenger (Leipzig, Teubner, 1914); P. Mon. Inv. No. signifies the inventory number which was given to the papyrus when it was acquired; this number was used to designate it before its publication in P. Mon.

<sup>2</sup>See note 7, below.

<sup>3</sup>a Leopold Wenger was the first to put forth this view, in his publication of P. Mon. Inv. No. 108 (see note 1, above), a lease of the late sixth century A. D.; see Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Romanistische Abteilung 32 (1911), 333. In his republication of the document as P. Mon. 1.8 he reiterated this view, and expanded it somewhat (P. Mon. 1, page 102, note to lines 12-13). Friedrich Preisigke held the same opinion, basing his view first on this document (Klio, Beiträge zur Alten Geschichte, 12 [1912], 456, note 2), later on P. Lond. 3.978, line 13 (page 233) (Hermes 34 [1919], 431-432). See also Preisigke, Wörterbuch der Griechischen Papyrusurkunden. . . . under *στέγη*. <For a review of this work, by Professor C. J. Kraemer, Jr., see THE CLASSICAL WEEKLY 26.133-134. C. K.>. Luckhard, too, offered the London papyrus as 'infallible proof' of this view (Fritz Luckhard, Das Privathaus im Ptolemäischen und Römischen Aegypten, 39-40 (this is a dissertation, published at Giessen, 1914, by the 'Hof- und Universitätsdruckerei Otto Kindt')). The sole dissenter was Adolf Berger, who considered the *τετάρτη στέγη* of the Munich papyrus as only three flights above the ground (Zeitschrift für Vergleichende Rechtswissenschaft 29 [1913], 326, note 18).

<sup>4</sup>37-38 (see note 2a, above).

<sup>16</sup>Gaius 4. 34 (as simplified and completed by Greenidge, 156 [see note 3, above]). This may be translated as follows: 'Let CD be *iudex* <I prefix here the usual opening words of a formula>. If Aulus Agerius is the heir of Lucius Titius, then if it appears that Numerius Negidius ought to pay Aulus Agerius 10,000 sesterces, let the *iudex* condemn Numerius Negidius <to pay> 10,000 sesterces to Aulus Agerius; if it does not <so> appear, <let the *iudex*> acquit <Numerius Negidius>'. Compare Cicero, In Verrem 2. 2. 31 (I correct Cicero's parody, and add the usual final words of a formula): 'Let L. Octavius be *iudex*. If it appears that the Capena estate, concerning which action is being taken, belongs by the law of the Quirites to P. Servilius, and <if> that estate shall not be restored to P. Servilius <not to Q. Catulus>, as in Cicero's burlesque formula: the sense is, 'if the estate is still held by the defendant', <let the defendant be condemned>'. . . .

<sup>17</sup>See Cicero, Pro Caecina 10, 20, Pro Quintio 8, 11, 33, 34, 71, Pro Tullio 6, 13-26, De Officiis 3. 44, De Re Publica 1.59, Partitiones Oratoriae 104, Academica Priora 2. 146, De Finibus 2.36; Gaius 3.180, 4.40-44; Aulus Gellius 14.26.

<sup>18</sup>See Cicero, Pro Quintio 25, 45, 48, 50, 60, 65, 73, 76, 79, 83, 88, 89, Pro Cluentio 165, In Verrem 2.2.109, 112, 116, 118, 126, Ad Familiares 7.21, Topica 18, De Legibus 1.17, De Finibus 2.74; Gaius 2.253, 4.39.

story, or, as we should say, a 'ceiling'. On this point all who have discussed the matter are agreed<sup>3a</sup>. From meaning 'ceiling' *στέγη* came to denote a 'story of a house'<sup>4</sup>. Naturally, then, since a ceiling bounds a room or a story on top, *στέγη* will denote the story *below* the ceiling in question, and *ἡ πρώτη στέγη* will mean *the story below the first ceiling*, i. e. *the ground floor*<sup>5</sup>.

We may note now that an *οἰκία μονόστεγος*, being, literally, 'a house with one roof', is a house one story high, i. e. a house with a ground floor only. An *οἰκία διστεγος*, 'a house with two roofs', is, accordingly, a house two stories high, with, as we learn from P. Lond. 3.978 (page 233)<sup>1</sup>, a *πρώτη* and a *δευτέρα στέγη*. But, according to the interpretation accepted hitherto, this would mean two stories in addition to the ground floor; there would thus be three stories in all, not merely two. Such a contradiction does not arise if we call *ἡ πρώτη στέγη* the ground floor. Not even the advocates of the continental method of counting conceive of an *οἰκία διστεγος* as having two ceilings and a roof. Luckhard<sup>6</sup> himself, in discussing the terms *διστεγος* and *τρίστεγος*, equates the *οἰκία διστεγος* of Egypt and the *οἰκίδιον διπλοῦν* of Lysias 1.9. Lysias tells us distinctly that the *οἰκίδιον διπλοῦν* had but one upper story.

In final proof of my view I present the evidence of the papyri themselves. P. Lond. 3.978, line 13 (page 233)<sup>7</sup>, reads *ἐπεὶ < = ἐπὶ > τῆς πρώτης στέγης ἐπάνου < = ἐπάνω > τοῦ πυλῶνος ἀνδρέωνα*. These words Preisigke<sup>8</sup> and Luckhard<sup>10</sup> take to mean 'an *ἀνδρέων* on the first floor, above the pylon', which is undoubtedly correct. But they go on to explain that this *ἀνδρέων* is on the same floor as the one whose location is given as *ἐν τῇ ἀνωτέρω . . . στέγῃ* (line 7), and that above this floor lies *ἡ δευτέρα στέγη*. Of the further occurrences of *στέγη* Luckhard found none which contradicted this explanation. But, since the publication of Luckhard's work, examples have appeared, especially in the papyri from Syene which are now in London and in Munich, which prove conclusively that *ἡ πρώτη στέγη* was the ground floor. P. Lond. 5.1724 (page 173) has (lines 24-25) *ἐν μὲν πρώτῃ στέγῃ κέλλιον ἐν ἐν τῷ πυλῶνι < = πυλῶνι >*<sup>10a</sup>. The pylon here is certainly on the

ground, and, if a storeroom is in the pylon and on the first floor, then the first floor also is on the ground. The same papyrus continues (25-27) with the words, *καὶ τὸ ἐπάνω αὐτοῦ συμπόσιον . . . ἐν δευτέρᾳ στέγῃ*, which show that the story above the ground floor was called *ἡ δευτέρα στέγη*, not *ἡ πρώτη στέγη*<sup>11</sup>. P. Lond. 5.1722, 18-20 (page 170), *ἐν μὲν τῇ πρώτῃ στέγῃ κέλλια δύο ἐν μὲν . . . νεῦον εἰς βορρᾶ < ν > εἰς τὸν προσπαρα- κείμενον πυλῶνα < = πυλῶνα >, ἄλλο δὲ . . . νεῦον εἰς λίβα εἰς τὸ < ν > πυλῶνα < = πυλῶνα > . . . ἐν δὲ τῇ δευτέρᾳ στέγῃ συμπόσια δύο*, and P. Mon. 1.11.25-26, 1.12.20-21 *ἀπὸ τοῦ κέλλιου ἐν πρώτῃ στέγῃ νεύοντος<sup>11a</sup> εἰς βορρᾶν εἰς τὴν δημοσίαν ῥύμην, καὶ ἀπὸ τοῦ ἐπάνω αὐτοῦ συμπόσιον ἐν δευτέρᾳ στέγῃ*, lead to the same conclusion, for a room cannot open on 'the pylon lying beside it' or on the public street unless the room is on the ground floor. A final bit of support for my view is lent by B. G. U. 3.1002 (55 B. C.). There, in lines 5-6, a *θυρίς τῆς πρώτης στέγης* is named as the southern limit of a half of a courtyard which is being sold.

What, then, does *ἐπὶ τῆς πρώτης στέγης ἐπάνου τοῦ πυλῶνος ἀνδρέωνα* in P. Lond. 3.978 mean? We know that the side towers of the Egyptian pylon soared high above the top of the doorway<sup>12</sup>. Thus considerable space remained between the top of the doorway and the ceiling of the ground floor. Rooms in this interspace were of frequent occurrence in Egypt from as far back as the New Empire<sup>13</sup>. The *ἀνδρέων* in question, being situated in this space, is both *ἐπάνου τοῦ πυλῶνος*, 'above the pylon', and *ἐπὶ τῆς πρώτης στέγης*, 'on the first (ground) floor'.

NEW YORK, NEW YORK

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## A CONTRIBUTION TO BIOGRAPHICAL CHRONOLOGY

For chronological data in connection with the biographies of eminent Romans, and, in general, for the chronology of important historical facts we are often compelled to rely upon statements in ancient authors which record the age of an individual at a particular period or moment of his life. Frequently the only means of determining the year of birth of an individual are statements that specify the time of his death and his age at that time. Unfortunately, the Romans were no more meticulous or consistent than we are to-day in the use of expressions of age.

The Romans had available to them a variety of expressions to indicate age, and they made full use of these varying expressions. I give examples of the most frequent, arranged in two groups: A. Vixit decem annos (also *annis* in post-classical Latin), Excessit decem annos natus, Explevit (Implevit) decem annos; B. Perit anno aetatis undecimo, Obiit annum aetatis undecimum

<sup>11</sup>Compare also, here and in the two following examples, Luckhard's statement (73: see note 2a, above) that the *συμπόσιον* was usually located in the upper story. He is followed in this by Wilhelm Schubart, *Einführung in die Papyrskunde*, 438.

<sup>11a</sup>So P. Mon. 1.11 reads, correctly. In P. Mon. 1.12 by a careless slip *νεῦον* appears.

<sup>12</sup>Warren E. Dawson, *Egyptian Art*, 105 (London, G. Allen and Unwin, 1923). This is a translation of Jean Capart, *Leçons sur l'Art Égyptien* [Liege, Imprimerie H. Vaillant-Carmanne, 1920].

<sup>13</sup>Luckhard, 67 (see note 2a, above).

<sup>3a</sup>For the discussions see note 2a, above.

<sup>4</sup>P. Cairo Zenon (see note 1, above) shows this meaning, heretofore known only from Byzantine times, as existing already in the third century B. C.

<sup>5</sup>Herodotus, in his description of the Labyrinth at Crocodilopolis (2.148.6) and in his account of Amasis's monolith (2.175.3), uses *στέγη* as = *οἶκμα*. He easily reached this meaning since a room is, after all, as the *Μέγα Λέξικον Τῆς Ἑλληνικῆς Γλώσσης* defines it (under *στέγη*), *τόπος κεκαλλυμένος διὰ στέγης*. Athenaeus (5.38, ad finem = 205 D), after describing the lower level of Philopator's river-boat, says, *καὶ τὰ μὲν ἄχρι τῆς πρώτης στέγης κατασκευασμένα τοιαῦτ' ἦν*.

<sup>6</sup>70 (see note 2a, above).

<sup>7</sup>This, like all but one of the papyri I shall mention or discuss, dates from the Byzantine period, when the sale or the rental of parts of houses, which made detailed specification of location and story necessary, had become almost as common, it would seem, as they are to-day.

<sup>8</sup>Corrected by H. Idris Bell, from the previous reading, *ἐπ' ὅλου* (see Friedrich Preisigke, *Berichtigungsliste der Griechischen Papyrurkunden aus Ägypten*, 202 [Berlin, Walter De Gruyter and Company, 1922]).

<sup>9</sup>Hermes 54 (1919), 432.

<sup>10</sup>30 (see note 2a, above).

<sup>10a</sup>The papyri themselves (and so, too, many volumes of published papyri, notably P. Lond.: see note 1, above) omit all accents. When accents are given in publications of papyri, the correct accent is given even when the Greek word is misspelled in the papyrus itself.

agens (gerens)<sup>1</sup>. A Roman might select any one of these expressions to commemorate a given event. The former group requires, logically, a statement of the number of years *completed* at the last birthday, the latter a statement of the particular year of life upon which the individual *had entered* at the time of the event recorded.

It is natural to expect, and my observations below will demonstrate, that the Romans, through carelessness, often failed to make a clean-cut distinction between the two groups of expressions; they sometimes used an expression in Group A when an exact statement of the time of life which they had computed and were seeking to convey to the reader or hearer demanded, logically, one of the expressions belonging to Group B, and *vice versa*. Likewise, different readers or hearers probably interpreted a given expression in different ways. The psychology of such carelessness is obvious, and needs no lengthy explanation. An individual's habit of recording age in memory or on paper in a characteristic manner, i. e. by expressions belonging either to Group A or to Group B, rendered it difficult for him to make the change in number necessary when he desired to convey the same idea through the medium of an expression in the less preferred group. There was thus a resultant tendency to interpret carelessly statements of age read or heard.

Only persons specially—one might say professionally—trained, e. g. writers of obituary notices, to differentiate sharply between the *number of years completed* at the last birthday (e. g. 85) and the *number of the year of life* (e. g. 86th) are studiously careful always to avoid such negligence. The practice usual to-day among laymen of designating age by the number of years of life *completed* at the last birthday often causes carelessness of expression in statements which require logically a number higher by one than the number of years of life *completed*, and, conversely, carelessness in the interpretation of such statements<sup>2</sup>.

The Romans had the same difficulties and fell into the same carelessness. A Roman author who had accustomed himself to record age by expressions in Group A was sometimes, if he was not careful, guilty of an error, if he used, for the sake of variety, the same number in an expression in Group B. Similarly, his lack of precision in expression sometimes caused him to misinterpret statements in other authors. Occasionally, however, a more careful writer, working with sources before him, altered the number if he desired to alter the expression which appeared in his source. But what if his source contained a careless expression of age? The alteration of the number and the expression then produced in the age recorded by the borrower an increase or a decrease of one year in the age which the source had intended to convey.

A number of examples from Latin authors will show how careless the Romans were, and how we may fall into error if we interpret them uncritically. Suetonius's

Lives are particularly valuable as illustrative material in this connection because he often records, in addition to the age at the time of death, the exact date of birth and of death, so that we can check his statements of age. Suetonius prefers for such statements expressions in Group B, that is, he usually states the year of life upon which, at the time of the event recorded, the person *had entered*<sup>3</sup>, but he is not consistent in his usage.

He records the age of Vespasian at the time of his death thus<sup>4</sup>: . . . extinctus est VIII. Kal. Iul. annum agens aetatis sexagesimum ac nonum superque mensem ac diem septimum. The date of his birth, as Suetonius states<sup>5</sup>, was November 17, 9 A. D., and the date of his death, as above recorded, was June 24, 79<sup>6</sup>. Accordingly, Vespasian lived sixty-nine years, seven months, and seven days<sup>7</sup>. Suetonius should, therefore, have used an expression in Group A, i. e. he should have said that Vespasian died sexaginta ac novem superque menses ac dies septem natus, or the like; by using an expression that belongs in Group B he has made a careless statement open to misinterpretation<sup>8</sup>.

Similar slipshod writing occurs in Suetonius's statement of Augustus's age at the time of his death: Obiit . . . septuagesimo et sexto aetatis anno, diebus V et XXX minus<sup>9</sup>. Suetonius means that Augustus all but *completed* seventy-six full years of life. A more exact expression would have been: Obiit . . . septuaginta et sex annos natus, diebus V et XXX minus<sup>10</sup>.

There is perhaps one case in Suetonius of the use of an expression in Group A when an expression in Group B is logically required. He says that Caligula Vixit annis viginti novem, imperavit triennio et decem

<sup>1</sup>Iulius 88 Perit sexto et quinquagesimo aetatis anno . . . ; Augustus 8.1 Duodecimum annum agens aviam Iuliam . . . laudavit; 61.2 . . . amisit . . . sororem Octaviam quinquagesimum et quartum agens aetatis annum; 100.1 Obiit . . . septuagesimo et sexto aetatis anno, diebus V et XXX minus; Tiberius 73.1 . . . obiit . . . octavo et septuagesimo aetatis anno, tertio et vicesimo imperii . . . ; Claudius 10.1 . . . quinquagesimo anno imperium cepit . . . ; Claudius 45 Excessit . . . sexagesimo quarto aetatis, imperii quarto decimo anno . . . ; Nero 7.1 Undecimo aetatis anno a Claudio adoptatus . . . ; Nero 57 Obiit tricensimo et secundo aetatis anno . . . ; Galba 23 Perit tertio et septuagesimo aetatis anno, imperii mense septimo; Otho 11.2 . . . exanimatus est . . . tricensimo et octavo aetatis anno . . . ; Vitellius 18 Perit . . . anno vitae septimo quinquagesimo; Vespasianus 24 (see above in the text); Titus 11 Excessit . . . altero et quadragesimo aetatis anno; Domitianus 17.3 Occisus est . . . anno aetatis quadragensimo quinto, imperii quinto decimo.

<sup>2</sup>Vespasianus 24. <sup>3</sup>Vespasianus 2.1 Vespasianus natus est . . . XV Kal. Decb. . . Q. Sulpicio Camerino C. Poppaeo Sabino Cons. . .

<sup>4</sup>Ludwig Holzapfel, *Klio* 17 (1921), 74-81, would 'correct' this date to June 24. Compare Harriet M. T. Skerrett, C. Suetonii Tranquilli De Vita Caesarum Libri VIII, Divus Vespasianus, 119, note b (a University of Pennsylvania dissertation, privately printed at Philadelphia, Pennsylvania, 1924).

<sup>5</sup>J. C. Rolfe, Suetonius (The Loeb Classical Library), translates incorrectly by "sixty-nine years, one month and seven days".

<sup>6</sup>There can be no question of error in calculation here. It is important, however, in all cases, to distinguish, if possible, between actual errors in chronology and slipshod writing. This is not the place to go into certain obvious and much-discussed errors in calculation in Suetonius, e. g. Nero 7.1, 57.1; Galba 23; Otho 11.2; Vitellius 18; Titus 11. Miss Skerrett (see note 6, above) appears to charge Suetonius with carelessness in recording Vespasian's age (her meaning is, however, not clear). George W. Mooney, C. Suetonii Tranquilli De Vita Caesarum Libri VII-VIII, 463 (London, Longmans, Green and Co., 1930), says of the expression, "... a very careless expression, though the meaning is clear..." He might have stated more carefully that the meaning is clear only if one has taken the trouble to calculate the length of Vespasian's life from the dates given by Suetonius. Dio Cassius states, more correctly, but less explicitly (66.17.3), ἔζησε δὲ ἑτη ἑννέα καὶ ἐξήκοντα καὶ μῆνας ὀκτώ.

<sup>7</sup>Augustus 100.1.

<sup>8</sup>Suetonius probably made a similar slip in recording the duration of Galba's reign (Galba 23): Perit . . . imperii mense septimo. Galba was in power for more than seven full months. Compare W. Liebenam, *Fasti Consulares Imperii Romani*, 105 (Bonn, Marcus and Weber, 1909).

<sup>1</sup>Instances of both types of expression will appear below, in the text, and in the notes.

<sup>2</sup>See e. g. Aegyptus 12 (1932), 405, where tribute is paid to Professor Ulrich Wilcken, who recently *completed* seventy years of life, and page 402, where there is an announcement of "Onoranze a Guglielmo Wilcken nel suo LXX anno".



mensibus diebusque octo<sup>11</sup>. Suetonius records the significant dates in Caligula's life as follows: birth, August 31, 12 A. D.<sup>12</sup>; accession to power, March 16, 37<sup>13</sup>; death, January 24, 41<sup>14</sup>. Accordingly, Caligula lived twenty-eight full years, and was in power three years, ten months, and eight days<sup>15</sup>.

No less a historian than Tacitus is guilty of carelessness in expressions of age. He says<sup>16</sup> of the destruction of Cremona, on October 31, 69 A. D.<sup>17</sup>, *Hic exitus Cremonae anno ducentesimo octogesimo sexto a primordio sui. Condita erat Ti. Sempronio et Cornelio consulibus*. . . (= 218 B. C.). Tacitus meant to convey the thought that Cremona existed for two hundred and eighty-six years. For a more striking instance of carelessness in Tacitus see the next paragraph of the text. Velleius Paterculus too sometimes failed to distinguish carefully between expressions of age. He says of Pompey<sup>18</sup>, *Sub adventum in Italiam L. Sullae, Cn. Pompeius . . . XXIII annos natus . . . contraxit exercitum*. Pompey was born on September 29, 106 B. C.<sup>19</sup>; he collected an army for Sulla in the spring of 83 B. C.<sup>20</sup> He was, therefore, at that time in the twenty-third year of his life, but not yet twenty-three years old. Velleius makes a similar slip in stating Octavius's age at the time of Caesar's Spanish campaign<sup>21</sup>: *quem <= Octavius> C. Caesar . . . dilexit ut suum, natumque annos XVIII Hispaniensis militiae assecutum se postea comitem habuit*. . . It is well known that Octavius was born on September 23, 63 B. C.<sup>22</sup> He was with Caesar in Spain in the spring of 45 B. C.<sup>23</sup> Accordingly, he was at that time in his eighteenth year, but he was not yet eighteen years old<sup>24</sup>. There are cases in Valerius Maximus of similar negligence. He says (9.3.8) that Sulla died sexagesimum ingreditur annum<sup>25</sup>; Appian says, more carefully, ἐξήκοντα ἔτη βιώσας<sup>26</sup>.

A very striking example of carelessness in the use of sources is seen by comparing with Augustus's statement in the opening section of the *Res Gestae* (Monu-

mentum Ancyranum), *Annos undeviginti natus exercitum privato consilio et privata impensa comparavi, per quem rem publicam a dominatione factionis in libertatem vindicavi*<sup>27</sup>, the words of Velleius Paterculus<sup>28</sup>, . . . cum Caesar XVIII annum ingressus, mira ausus ac summa consecutus, privato consilio . . . veteranos excivit paternos. . . and Tacitus's statement<sup>29</sup>, . . . cum octavo decimo aetatis anno Cn. Pompeius, nono decimo Caesar Octavianus civilia bella sustinuerint. . . I have no doubt that Velleius and Tacitus saw and used as source material the copy of the *Res Gestae* before the Mausoleum of Augustus in Rome. The carelessness of Tacitus and Velleius is obvious<sup>30</sup>. We may have here an explanation of cases in which Octavius is said by later authors to have been eighteen years old at the time<sup>31</sup>. Later authors, relying upon careless statements such as those in Velleius and Tacitus, may have altered *aetatis anno . . . nono decimo* to its close equivalent *annos X et VIII natus*. The emphasis upon the extreme youth of Octavian tended to make easy the reduction of the numeral, just as the extreme age of Gorgias operated in the opposite direction<sup>32</sup>.

Negligence such as has been observed in Tacitus, the greatest of the Roman historians, is carried to extremes by a less careful worker like Eutropius. I have selected Eutropius as an example advisedly, because it can be shown that he used Suetonius's *Lives* as one of his sources<sup>33</sup>. Compare Eutropius 7.12.4. . . *interfectus <Caligula> . . . est anno aetatis vicesimo nono, imperii tertio, mense decimo dieque octavo*, with Suetonius, *Gaius 59 Vixit annis viginti novem, imperavit triennio et decem mensibus diebusque octo*<sup>34</sup>; Eutropius 7.13.5 *Is <= Claudius> vixit annis IV et LX, imperavit XIV*, with Suetonius, *Claudius 45 Excessit . . . sexagesimo quarto aetatis, imperii quarto decimo anno*. . . <sup>35</sup>

<sup>27</sup>Augustus is referring to the civil war late in 44 B. C. and early in 43 B. C., after his nineteenth birthday. Compare T. Rice Holmes, *The Architect of the Roman Empire*, 28-68 (Oxford: At the Clarendon Press, 1928).

<sup>28</sup>Compare Theodor Mommsen, *Res Gestae Divi Augusti*, 3 (Berlin, Weidmann, 1883); Concetta Barini, *Monumentum Ancyranum*, 71 (Rome, 1930). I do not follow Hardy (E. G. Hardy, *The Monumentum Ancyranum* [Oxford: At the Clarendon Press, 1923]), who says (26) that Velleius's statement "makes him a year too young."

<sup>29</sup>Compare Eutropius 7.1 annos X et VIII natus; Florus 4.4 intra XVIII annos.

<sup>30</sup>In some ancient sources Gorgias is said to have lived 108 years (compare Pliny, *Historia Naturalis* 7.156; Philostratus, *Vitae Sophistarum* 1.9; Lucian, *Macrobio* 23; Censorinus, *De Die Natali* 15.3), in others 100 years (compare Quintilian 3.1.9; Suidas, under Γοργιάς; Apollodorus, in *Diogenes Laertius* 8.58). See Felix Jacoby, *Apollodor's Chronik*, 261 (Berlin, Weidmann, 1902); E. Wellmann's article Gorgias, in Pauly-Wissowa-Kroll, *Real-Encyclopädie*, 7.1508.

<sup>31</sup>See Paul Ebeling, *Quaestiones Eutropianae*, 12-28 (Halle, 1881. This is a dissertation).

<sup>32</sup>Compare Ludwig Holzapfel, *Klio* 17 (1921), 78, note 5. By altering Suetonius's expression Eutropius has inadvertently rectified Suetonius's error in the age of Caligula (see the text above, in connection with note 15), but at the same time he has wrongly stated the duration of Caligula's reign.

<sup>33</sup>In other cases in which Eutropius is apparently incorrect the fault lies with his source, not with his own carelessness. Compare e. g. 7.15.3 *Obiit <Nero> tricesimo et altero aetatis anno*. . . with Suetonius, *Nero 57.1 Obiit tricesimo et secundo aetatis anno*. . . ; 7.16.3. . . *occisus est <Galba> imperii mense septimo*, with Suetonius, *Galba 23 Periit . . . imperii mense septimo*; 7.17.3. . . *obiit <Otho> tricesimo et octavo aetatis anno*. . . with Suetonius, *Otho 11.2 . . . exanimatus est . . . tricesimo et octavo aetatis anno*. . . ; 7.20.2. . . *extinctus est <Vespasianus> . . . annum agens aetatis sexagesimum ac nonum*. . . with Suetonius, *Vespasianus 24* (see the text above, in connection with note 7). Ludwig Holzapfel, *Klio* 12 (1912), 489, note 6, 15 (1918), 104, note 6, 17 (1921), 78, note 5, unjustly accuses Eutropius of negligence in these cases. Even modern scholars are careless in using ancient sources. Weyand, in Pauly-Wissowa-Kroll, *Real-Encyclopädie*, 6.2674, says that Vespasian died "im 69. Lebensjahr". Vespasian lived full 69 years.

<sup>11</sup>Gaius 59. <sup>12</sup>Gaius 8.1. <sup>13</sup>Suetonius, *Tiberius* 73.1. <sup>14</sup>Gaius 58.

<sup>15</sup>There may, however, be an error by Suetonius in calculation here, because he gives the duration of Caligula's reign correctly. I am not at all sure that Suetonius took the trouble to calculate ages and durations of reigns, even though he gives precise dates. It was easier for him to follow his sources. Another piece of careless writing is in *Domitianus* 17.3 *Occisus est XIII. Kal. Octob. <= September 18, 96 A. D.> anno aetatis quadragensimo quinto, imperii quinto decimo*. Suetonius informs us (*Domitianus* 1.1) that Domitian was born on October 24, 51 A. D. (compare *Corpus Inscriptionum Latinarum* 10.444.14-15 IX K. Novembr. natal. Domitiani Aug. N.), and implies (*Titus* 11) that he succeeded his brother Titus on September 13, 81 A. D. Accordingly, when Domitian died in the forty-fifth year of his life, he had completed fifteen years of rule.

<sup>16</sup>*Historiae* 3.34. <sup>17</sup>Compare B. W. Henderson, *Civil War and Rebellion in the Roman Empire A. D. 69-70* (London, Macmillan, 1908).

<sup>18</sup>W. Drumann, *Geschichte Roms in seinem Uebergange von der Republikanismen zur Monarchischen Verfassung*, Zweite Auflage, Herausgegeben von P. Groebe, 4.332 (Leipzig, Borntraeger, 1908).

<sup>19</sup>See Fröhlich's article Sulla, in Pauly-Wissowa-Kroll, *Real-Encyclopädie*, 4.1544-1547.

<sup>20</sup>Suetonius, *Augustus* 5; Dio Cassius 56.30.5; Aulus Gellius 15.7.3; *Corpus Inscriptionum Latinarum* 12, page 329.

<sup>21</sup>Compare Clayton M. Hall, *Nicolaus of Damascus' Life of Augustus*, 79, note 1 to section 11 of the text (a Johns Hopkins University dissertation, 1923, published also in the *Smith College Classical Studies*, Number IV, Northampton, Massachusetts, 1923).

<sup>22</sup>Compare P. Groebe, *Hermes* 42 (1907), the "Tafel" following page 308.

<sup>23</sup>*Ibidem*. For a similar slip by Valerius Maximus compare 8.7, Ext. 11 *Te quoque, Cleanthe, . . . numen ipsius industriae . . . ad undecentesimum annum . . . videret*, with Censorinus, *De Die Natali* 15.3. . . *Cleanthes, qui uno minus centum explevit*.

<sup>24</sup>B. C. 1.105.492, which I cite from the edition of Ludwig Mendelssohn, *Appiani Historia Romana*, Editio Altera, by Paul Viereck (Leipzig, Teubner, 1905).



Finally, compare Suetonius, Augustus 8.1 Duodecimum annum agens aviam Iuliam defunctam pro contione laudavit, with Quintilian 12.6.1 Caesar Augustus duodecim natus annos aviam pro rostris laudaverit. . . . Quintilian's usage in expressions of age cannot be tested, because of insufficiency of examples; Suetonius has been tested and found inconsistent and careless. Lacking other confirmatory evidence, we must confess that we do not know whether Octavius had reached the twelfth anniversary of his birth or was still in the twelfth year of his life at the time his grandmother Julia died<sup>36</sup>.

The importance of the foregoing discussion lies in the wider application of the principle induced. We cannot be certain of the exact interpretation of any statement of age in any Latin author until we have demonstrated that the particular author involved is consistently careful in his usage.

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### REVIEW

The Poems of Catullus, Arranged and Edited by W. B. McDaniel, 2<sup>d</sup>. New York: Oxford University Press (1931). Pp. xx + 195. \$1.75.

There are two important points of difference between Mr. McDaniel's edition of Catullus and other School or College editions of that poet. In the first place, Mr. McDaniel includes all the poems, preferring that the teacher should make his own selection. One may doubt the wisdom of this decision, for, whatever the teacher's choice may be, the interested student who has the complete text before him may be expected to go beyond it for himself, and, without expressing any opinion on the question of 'bowdlerising' on 'moral' grounds, one may urge that most of the trivial pieces which are generally omitted are unworthy of Catullus. The usual selections do in fact include all on which his claim to be a great poet rests: so far as the other pieces are concerned, he is not a poet at all. In the second place, Mr. McDaniel has arranged the poems in a chronological order, believing that, though the arrangement adopted by him can claim no certainty, it will help the reader to a better understanding of the relation between the poet's work and his life. For this point of view there is much justification. Against Mr. McDaniel's tentative chronological scheme there is nothing to be said.

The matter in the introductory pages (xi-xx), under the caption A Note on Catullus and his Times, is slight but adequate. Some readers may be annoyed by artificial twists of phrase like that which describes Julius Caesar as "that Vergilian descendant of Venus. . ." (xii). Two criticisms of detail may be made. Not enough emphasis is laid on the northern connections of

Catullus and several members of his circle, including the scholar Valerius Cato. Further, it is hard to see the grounds for the statement (xvi) that "The New Poets were among those to frequent the court of Clodia. . ."; they *may* have been, but there is not a scrap of evidence connecting any of the *neoterici* except Catullus himself with Clodia.

Mr. McDaniel intends (Preface, viii) his edition for "the intelligent undergraduate, who need not necessarily be a specialist in classical studies. . ." He has therefore cut down his notes to the minimum with the object of keeping them readable for the student. The Introductions to the poems are interestingly written, if they are sometimes a trifle naïve, but some of their superfluities might profitably have been cut down to allow some expansion of the commentary. It is difficult to see in "Catullus' Epyllion, *The Marriage of Peleus and Thetis*" (64: 117<sup>1</sup>) a "wealth of allusions to others of Catullus' own poems. . ." which Mr. McDaniel (169) describes as "Probably the most striking characteristic of this poem. . ." Drawing attention to the resemblance between *cila. . . puppi* (64.6: 117.6) there and *celeri rate* in the *Attis* (63.1: 62.1) is simply wasting space. Again, there is no reason for comparing *salaputium* (53.5: 73.5) with "...Swift's coinage, *Lilliputian*". Some of the notes are put in the form of questions, and these are often suggestive and draw attention to some of the finer points of style and phrasing. But too many are of the 'label'-type, which is the bane of the School edition, and many others suffer from over-compression and from an unfortunate looseness of expression. Thus on 31.1 (64.1) we are told that *paene* is used adjectivally, on 4.10 (65.10) that the construction of *antea* (which is perfectly normal) is a Grecism. The note on 17.20 (1.20), "*nulla*: the *puella*", is, as it stands, meaningless. In 62.8 (4.8) the idiom involved in *viden ut* is not clearly explained, and the remark on 62.45 (4.45) that "The second *dum* clause comes in thought out of the first" throws little light on a much-discussed verse. On 22.9 (10.9) *legas* is described as "subjunctive (with *cum*) of repeated action", as if that were a normal construction in Republican Latin. In 2.7 (15.7) *solacium*, however it is to be explained, cannot be "in apposition with *libet nescio quid joculari*". In 66.51 (39.51) it is at least doubtful, in view of the recently recovered Greek, whether *abiunctae* qualifies *comae*. Among the difficult points of grammar or interpretation which are not mentioned at all are 4.2 (65.2) *ait fuisse*, 12.8-9 (27.8-9) *leporum disertus puer*, 64.325 (117.325) *tutamen opis*, 68 b. 45 (40.45) *abisse*, 101.3 (61.3) *donarem*.

More unfortunate than the omissions in the notes are the positive mistakes, which should be removed in a revision of the book. In the note on 21.1 (80.1) the ghost-word *esuritiorum* (apparently for *esurientium*) may possibly be due to the printers: but the surprising remark on 3.11 (21.11) which explains *tenebricosum* as "a beautiful word which is a variation of the more usual *tenebricum*" (which in fact is very rare) must be as-

<Here and in like instances below, and in such citations as "17.20 (1.20)" the first group of figures is according to the usual numbering of the poems, the second according to the number in Mr. McDaniel's book. C. K.>

<sup>36</sup>Nicolaus of Damascus, *Bios Kaisaropos* 3, says that he was about nine years old at the time. Carolus Müller, *Fragmenta Historicorum Graecorum*, 3.428, note (Paris, 1849), has suggested the emendation of *περί ἐννέα* to *περί ἐνδεκά*, in order to reconcile the statements. Fitzler-Seeck, in the article Julius (Augustus) in Pauly-Wissowa-Kroll, *Real-Encyclopädie*, 10.278, offer the suggestion that two separate occasions are meant, the first in September, 54 B. C., when Caesar's daughter Julia died, the second when Caesar's sister Julia, Octavius's grandmother, died. Compare Hall (see note 23, above), 77, note 1 to section 3 of the text.

cribed to the editor. The note on 68 b. 78 (40.78), "*qui: sc. barathrum...*", suggests (I hope I may be wrong) that Mr. McDaniel has mistaken a gender. On 39.11 (30.11) *parcus Uंबर*, we are told that "Umbrian poverty was proverbial": but in fact elsewhere the Umbrians are proverbial for luxury. On 21.13 (80.13) the note "*irrumatus: sc. sis*" ignores a familiar idiom noted by Ellis here and by Mayor on Juvenal 5.147. On 65.6 (38.6) *Lethe*, which was not, *pace* Mr. McDaniel, "crossed by boat", seems to be confused with *Styx*. In 64.301 (117.301) *Idri* cannot possibly be a Latin genitive of *Idrias*, as it is here alleged to be; it may be a genitive of *Idrieus*, the name of the eponymous founder of *Idrias*. In 29.20 (99.20) Schwabe's conjecture *nunc Galliae timetur et Britanniae* is printed in the text: but neither Schwabe nor anyone else before Mr. McDaniel thought of taking *Galliae* and *Britanniae* as genitives governed by such a phrase as *ab incolis* understood.

The summary account of the meters of Catullus (182-186) is in the main correct, but it is not complete. The meaning of the term *seazon* is not explained (183-184), and the reader is left to detect for himself the difference between the *seazon* and the pure iambic line (which is mentioned two pages later, 186). The treatment of the galliambic (185) meter is hardly adequate, for *anacalasis*, which alone can bridge the gulf between an Ionic line and Catullus's galliambic, is not mentioned, and 63.54 (62.54), which has incurred general suspicion because it has no *anacalasis*, is quoted as a normal example of the galliambic verse. If meters are to be presented at all to the College student, they should be fully and rationally explained.

It is a pity that Mr. McDaniel has let so many errors of omission and commission slip into his work, for it has the makings of a useful book.

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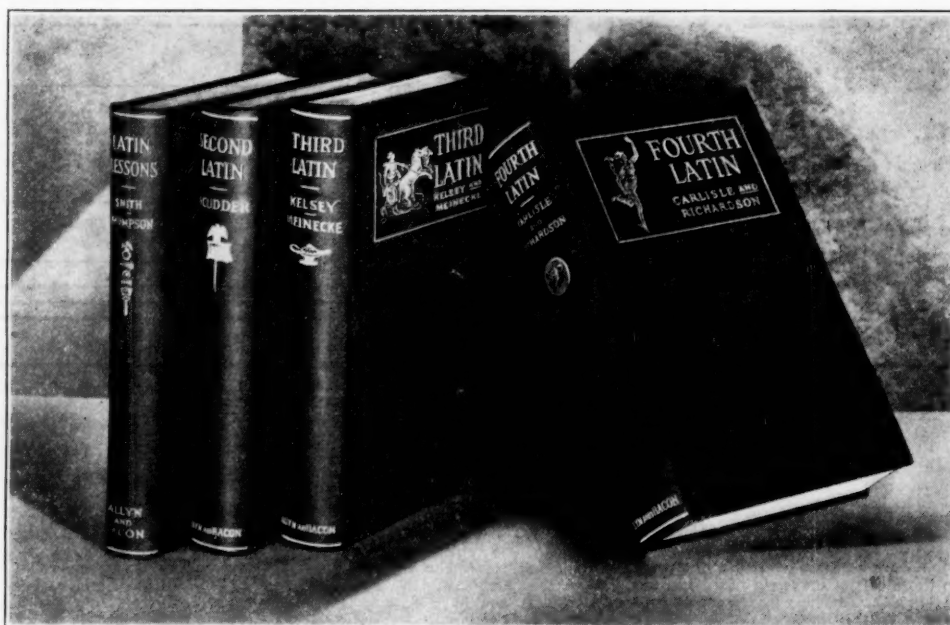
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